

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1070

INTRODUCER: Transportation Committee and Senator Hooper

SUBJECT: License Taxes

DATE: April 24, 2023

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|--------------------|-----------------|------------|------------------|
| 1. <u>Price</u> | <u>Vickers</u> | <u>TR</u> | Fav/CS |
| 2. <u>Nortelus</u> | <u>Jerrett</u> | <u>ATD</u> | Favorable |
| 3. <u>Nortelus</u> | <u>Sadberry</u> | <u>AP</u> | Favorable |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1070 imposes specified additional registration fees on certain electric vehicles. The bill defines the terms “electric vehicle” and “plug-in hybrid electric vehicle,” imposes fees on such vehicles in addition to registration fees currently assessed against non-electric vehicles, and authorizes biennial registration of such vehicles. The additional taxes imposed apply to an initial or renewal registration that has a renewal period beginning on or after October 1, 2023.

The bill provides for distribution of the proceeds of such fees to the State Transportation Trust Fund and to the county where such a vehicle is registered, and requires the Florida Department of Transportation to transfer funds allocated to a county to the Florida Department of Revenue for distribution, as specified. The bill restricts use of the proceeds to transportation expenditures, as defined in current law; exempts certain electric and plug-in hybrid electric vehicles from the additional tax; and provides that the additional fees expire on December 31, 2031. The bill also makes necessary conforming revisions.

The Revenue Estimating Conference has not analyzed the committee substitute however, staff does not expect the estimate from the prior version of the bill to change. The Revenue Estimating Conference¹ determined, for the prior version of the bill, an increase in receipts to the State Transportation Trust Fund of \$16.4 million in fiscal year 2023-2024 and by \$37.1 million

¹ See the Revenue Estimating Conference’s adopted consensus estimate available at [Microsoft Word - 2 - SB 1070 - Revised \(state.fl.us\)](https://www.state.fl.us/microsoft-word-2-sb-1070-revised) (last visited March 10, 2023).

recurring. Local government revenues were estimated to increase by \$9.2 million in fiscal year 2023-2024 and by \$20.9 million recurring².

The bill takes effect July 1, 2023.

II. Present Situation:

The Impact of Electric Vehicles on Revenues

Annual fuel tax revenues at both the state and federal levels are directly based on the number of gallons of gasoline and diesel fuel consumed. Because some electric vehicles (EVs) are not powered by gasoline or diesel, and because others use less gasoline or diesel fuel than a conventional vehicle with only an internal combustion engine, an increase in the number of EVs operating on the roadways results in less revenue being raised from fuel taxes for comparable vehicle miles traveled.

Projections for EV sales vary, but a literature review suggests a general consensus that while EV adoption will not significantly impact state revenues in the near-term, EV sales will continue to increase over the long-term. The Florida Department of Transportation's (FDOT's) *EV Infrastructure Master Plan*, completed in July of 2021, concludes that negative impacts to motor-fuel based revenue streams in Florida could range between 5.6 percent and 20 percent by the year 2040, depending on the rate of growth of EV sales.³

The National Perspective

Traditional funding for repairs and improvements to the nation's highways comes primarily from state and federal taxes collected at the pump. A perceived inequity may exist, in that electric vehicles do not require motor fuel to operate, or at least as much in the case of vehicles that operate on a combination of electricity and gasoline or diesel, compared to motor vehicles with internal combustion engines. The assertion is that EV owners may not be fairly contributing to the cost of constructing and maintaining public roads through payment of "traditional" registration fees.

According to the National Conference of State Legislatures (NCSL), a national "growing policy trend" has developed of imposing a separate registration fee for certain EVs to address the issues of declining revenues and fair contribution.⁴ The following may serve to highlight the trend:

- Thirty-one states impose some form of a special registration fee for electric vehicles which is in addition to the registration fee for motor vehicles with internal combustion engines.
- Of those, 18 states also assess a fee on vehicles that operate on a combination of electricity and gasoline. The fees range from \$48.75 in Iowa to \$100 in Alabama, Arkansas, Ohio and West Virginia.

² *Id.*

³ See the FDOT's *EV Infrastructure Master Plan*, p. 30 of 52, available at [fdotevmp.pdf \(windows.net\)](#) (last visited February 22, 2023).

⁴ See [ncsl.org, Special Fees on Plug-In Hybrid and Electric Vehicles \(ncsl.org\)](#) (last visited February 22, 2023).

- Ten states⁵ enacted laws in 2019 amending or adding new fees for plug-in electric and some plug-in hybrid vehicles, with fees ranging from \$50 per year in Colorado, South Dakota, and Hawaii, to \$225 for a plug-in electric vehicle in Washington.
- The enacted legislation in Alabama, Arkansas, Ohio, and Wyoming set or increased fees for EVs to \$200 annually. In 2021, South Dakota law was revised to impose a fee of \$50 for all plug-in electric vehicles, and Oklahoma tiered its EV fees based on vehicle weight. Louisiana enacted legislation in 2022 imposing a \$110 fee for EVs and a \$60 fee for plug-in hybrids.⁶
- At least five states tie the additional registration fees to the consumer price index or another inflation-related metric and periodically increase the fees (California, Indiana, Michigan, Mississippi, and Utah).⁷

Use of Revenues from Additional Electric Vehicle Registration Fees

Revenue from these additional registration fees is, according to the NCSL, most often directed to a state transportation trust fund as a fair contribution to the cost of constructing and maintaining the public roads, with a few states also allocating some of the revenue to support EV charging infrastructure, for construction and maintenance of highways and bridges, and small amounts to other uses.⁸

Types of Electric Vehicles

The U.S. Department of Energy's Alternative Fuels Data Center uses the term, "electric-drive vehicles," to collectively refer to all-electric vehicles (AEVs), hybrid electric vehicles (HEVs), and plug-in hybrid electric vehicles (PHEVs):

- AEVs use a battery to store the electric energy that powers the motor. AEVs do not have an internal combustion engine and are solely powered by electricity. AEV batteries are usually charged by plugging the vehicle into an electric power source.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery, and are plugged into an electric power source to charge the battery. PHEVs can travel various distances on electricity alone but can also operate solely on motor fuel.
- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. An HEV battery is

⁵ Alabama, Arkansas, Hawaii, Illinois, Iowa, Kansas, North Dakota, Ohio, Washington and Wyoming.

⁶ *Supra* note 2. Scroll down to the "State Action" heading. The definitions, fees, and fee distributions for each state are reflected under the heading *States With Fees on Plug-In and/or Electric Vehicles*.

⁷ Two states have enacted road user charges (Oregon and Utah), also known as vehicle miles traveled fees or mileage based user fees and, according to the Transportation Investment Advocacy Center (TIAC), as of May, 2022, three states (Pennsylvania, Iowa, and Oklahoma) had enacted excise taxes on the electricity that powers electric vehicles. See the TIAC's *Electric Vehicle Excise Tax Model Language*, Appendix B, available at [2022 Electric Vehicle Excise Tax Model Language-2.pdf \(transportationinvestment.org\)](https://www.transportationinvestment.org/2022-Electric-Vehicle-Excise-Tax-Model-Language-2.pdf) (last visited February 22, 2023). However, legislation enacted in Oklahoma in 2021 imposes additional fees for electric vehicles and plug-in hybrids dependent upon the weight of the vehicle, ranging from \$110 to \$2,250 for all-electric vehicles and from \$82 to \$1,687 for plug-in hybrid electric vehicles. *Supra* note 4.

⁸ *Supra* note 4.

charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.⁹

State definitions are not always consistent with the above definitions and contain some variation. Careful crafting of a state's definition is necessary to impose any fees as intended.

Florida's Registration Structure and Electric Vehicles

Florida's definition of the term "motor vehicle" for registration purposes is quite broad,¹⁰ and all vehicles meeting the definition, with some exceptions, are required to be registered in this state.¹¹ Current law imposes an initial registration fee (a license tax) of \$225 on automobiles and tri-vehicles for private use, certain trucks, and motor homes and truck campers.¹² Thereafter, registration is generally based on the class and weight of the vehicle. The fees range generally from \$5 for a moped to \$1,322 for heavy trucks or truck tractors and wreckers.¹³

After monthly distributions for education purposes, for completion of the interstate highway system, and for the Florida Seaport Transportation and Economic Development (FSTED) Program, the remaining proceeds from registration fees are deposited in the State Transportation Trust Fund.¹⁴

Current law defines the term "electric vehicle" for registration purposes as a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.¹⁵ The license tax for an EV is the same as that prescribed in law for a vehicle that is not electrically powered.¹⁶

Thus, Florida law currently makes no distinction between the types of EVs in its definition, as all-electric *and* hybrid electric vehicles, plug-in or regenerative, are in fact powered, in whole or in part, by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current. The definition does not require that an electric vehicle be *solely* powered as described. Additionally, Florida law does not charge a fee in addition to the registration fee for a "traditional" vehicle as some 31 other states do, for registration of electric vehicles.

⁹ See U.S. Department of Energy, [Alternative Fuels Data Center: Electric Vehicles \(energy.gov\)](https://www.energy.gov/alternative-fuels-data-center/electric-vehicles) (last visited March 10, 2023).

¹⁰ Section 320.01(1), F.S.

¹¹ Section 320.02, F.S.

¹² Section 320.072, F.S.

¹³ Section 320.08, F.S.

¹⁴ Section 320.20, F.S.

¹⁵ Section 320.01(36), F.S.

¹⁶ Section 320.08001, F.S.

Biennial Registration

Currently, any person who owns a specified vehicle¹⁷ that is required to be registered¹⁸ may renew the registration biennially during the applicable renewal period upon payment of the two-year cumulative total; *i.e.*, double the amount of the applicable annual license tax (as well as the service charge and surcharge).¹⁹

Local Option Fuel Taxes

County governments are authorized to levy up to 12 cents of local option fuel taxes in three separate levies on fuel sold within the county.²⁰ Relevant for purposes of the bill is a tax of one to six cents on every net gallon of motor and diesel fuel sold within a county.²¹ Generally, this tax is levied by ordinance adopted by a majority vote of the governing body or upon approval by referendum.²² Revenues from the tax are remitted to the Florida Department of Revenue (FDOR) by the licensed terminal supplier who owned the fuel immediately prior to removal from storage²³ and transferred to the Local Option Fuel Tax Trust Fund.²⁴

The FDOR distributes the tax proceeds monthly²⁵ according to distribution factors determined at the local level by interlocal agreement between the county and municipalities within the county's boundaries. If no such agreement is established, a local government's distribution is generally based on the transportation expenditures of that local government for the immediately preceding five fiscal years as a proportion of the sum total of such expenditures for the respective county and all municipalities within the county.²⁶ County and municipal governments may use the proceeds only for "transportation expenditures."²⁷

¹⁷ Generally, motorcycles and mopeds; automobiles or tri-vehicles for private use; light-duty trucks and heavy duty trucks and truck tractors of a certain weight; motor vehicles for hire; trailers for private use; trailers for hire; recreational vehicle-type units; park trailers, travel trailers, and fifth-wheel trailers of a certain length; and mobile homes. *Infra* note 18.

¹⁸ Sections 320.08(1)-(3), (4)(a) or (b), and (6) – (11), F.S.

¹⁹ *See* s. 320.03, F.S.

²⁰ *See* floridarevenue.com, [Florida Dept. of Revenue - Local Option Taxes \(floridarevenue.com\)](http://floridarevenue.com) (last visited February 24, 2023).

²¹ Section 336.025(1)(a), F.S. Local option tax rates on diesel fuel are "equalized" statewide, meaning that the full six cents, and another 1 cent per s. 336.021(1)(a), F.S., is levied on every net gallon of diesel fuel sold in every county. Seven cents' worth of local option tax revenue on diesel fuel is distributed to local governments, regardless of whether the county is levying these two taxes. *Id.*

²² *See* s. 335.025(3)(a)1.-3. and (3)(b), F.S.

²³ Section 206.41(2), F.S.

²⁴ Section 336.025(2)(a), F.S.

²⁵ *Id.*

²⁶ Section 336.025(4)(a), F.S.

²⁷ Section 336.025(7), F.S. The term includes public transportation operations and maintenance; roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment; roadway and right-of-way drainage; street lighting installation, operation, maintenance, and repair; traffic signs, traffic engineering, signalization, and pavement markings, installation, operation, maintenance, and repair; bridge maintenance and operation; and debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks. Note that current law authorizes the governing body of a county with a population of 50,000 or less on April 1, 1992, or the governing body of a municipality within such county to use the proceeds in any fiscal year to fund "infrastructure projects" under the conditions and as specified in s. 336.025(8), F.S.

III. Effect of Proposed Changes:

Additional License Taxes, Biennial Registration, Distribution, Exemption, and Applicability (Section 1)

The bill amends s. 320.08001, F.S., defining terms as follows:

- “Electric vehicle” means a motor vehicle that is solely powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.
- “Plug-in hybrid electric vehicle” means a motor vehicle equipped to be propelled by an internal combustion engine and an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current that are recharged by an energy source external to the motor vehicle.

An all-electric (or “battery electric”) vehicle would meet the definition of “electric vehicle,” as it is solely powered as described, but not meet the definition of “plug-in hybrid electric vehicle,” as it is not also equipped to be propelled by an internal combustion engine. The definition of “plug-in hybrid electric vehicle” excludes all-electric vehicles, as they are not equipped to be propelled by an internal combustion engine, and excludes hybrid electric vehicles, as they are not recharged by an energy source external to the motor vehicle. Under the bill, Florida law would impose fees in addition to registration fees for non-electric vehicles only on electric vehicles and plug-in hybrid electric vehicles, as defined. Hybrid electric vehicles that use regenerative braking would not be subject to an additional fee.²⁸

The bill removes “an electric vehicle” from current law providing that the license tax for such is the same as that prescribed in s. 320.08, F.S., for a vehicle that is not electrically powered, leaving that provision applicable only to a low-speed vehicle. Instead, the bill imposes the following annual license taxes:

- For electric vehicles, in addition to the license tax prescribed in s. 320.08, F.S.,²⁹ an annual license tax of \$200, increasing to \$250 beginning January 1, 2028.
- For plug-in hybrid electric vehicles, in addition to the license tax prescribed in s. 320.08, F.S., an annual license tax of \$50, increasing to \$100 on January 1, 2028.

The additional license taxes expressly apply to an initial registration or renewal registration that has a renewal period beginning on or after October 1, 2023. Any person or entity that registers an electric or plug-in hybrid electric vehicle is authorized to renew the vehicle registration biennially.

Sixty-four percent of the proceeds from the additional license taxes imposed must be deposited into the State Transportation Trust Fund, and 36 percent must be allocated to the county where the vehicle is registered. The Department of Highway Safety and Motor Vehicles must transfer the funds allocated to a county to the FDOT for distribution to the board of county commissioners and municipalities within the county in proportion to the previous quarter’s

²⁸ Research identified only eight states that impose an additional fee on hybrid electric vehicles that use regenerative braking.

²⁹ Still the same for the same class and/or weight of a non-electric vehicle.

distribution of the local option fuel taxes. Local governments must use the funds for defined transportation expenditures.³⁰

The bill exempts from the additional annual license tax imposed under the amended section of law an electric or plug-in hybrid electric vehicle that uses a battery storage system of up to five kilowatt hours.

Biennial Registration (Section 2)

The bill amends s. 320.07(2)(b), F.S., relating to biennial registration, to insert a reference to s. 320.08001, F.S., thereby authorizing biennial registration of low-speed vehicles and of the specified vehicles that meet the definition of “electric vehicle” or “plug-in hybrid electric vehicle.”

Expiration of the Additional License Taxes (Section 3)

The bill creates an undesignated section of law providing that the amendments made by the act to s. 320.08001, F.S., expire on December 31, 2031, and the text of that section reverts to that in existence on June 30, 2023, except that any amendments to such text enacted other than by the act are preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text that expire.

Effective Date (Section 4)

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill not does require counties or municipalities to spend funds, reduce counties’ or municipalities’ authority to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19, of the Florida Constitution requires that a new state tax or fee must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the

³⁰ *Supra* note 26.

Florida Constitution defines “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.” The bill imposes license taxes in addition to the “base” registration fee for electric and plug-in hybrid electric vehicles, authorizes payment of the additional license taxes biennially, provides for distribution of the proceeds from the additional taxes, and provides an exemption from the additional fees. The bill requires a two-thirds vote of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not analyzed the committee substitute however, staff does not expect the estimate from the prior version of the bill to change. The Revenue Estimating Conference³¹ determined, for the prior version of the bill, an increase in receipts to the State Transportation Trust Fund of \$16.4 million in fiscal year 2023-2024 and by \$37.1 million recurring. Local government revenues were estimated to increase by \$9.2 million in fiscal year 2023-2024 and by \$20.9 million recurring³².

B. Private Sector Impact:

Those who register electric vehicles or plug-in hybrid electric vehicles as defined in the bill would be subject to the specified additional registration fees.

C. Government Sector Impact:

The bill will allow for increase spending on projects funded through the State Transportation Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08001 and 320.07.

³¹ See *supra* note 1.

³² *Id.*

This bill creates an undesignated section of law.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on March 20, 2023:

The committee substitute changes a reference from “paragraph” to “subsection” for technical accuracy and clarifies that electric and plug-in hybrid electric vehicles with battery storage systems of up to five kilowatt hours are exempt from the additional annual license tax, not the base license tax.

- B. **Amendments:**

None.